THE HON'BLE MR JUSTICE N.V. RAMANA

WRIT PETITION NO : 11310 of 2006

DATED: 24-8-2006

Between:

K.Lachaiah

..petitioner

And

The APSRTC , Musheerabad, Hyderabad, rep. by its Managing Director.

..Respondents

THE HON'BLE SRI JUSTICE N.V.RAMANA

WRIT PETITION NO. 11310 of 2006

ORDER:

The petitioner was worked as driver with the respondents-APSRTC. While discharging his duties as driver at Zaheerabad Depot, he was removed from service, vide order dated 10-05-2001. Aggrieved by which, he raised an Industrial Dispute No.59 of 2001 before the Labour Court-II, Hyderabad and the same was allowed on 18-09-2003 directing the respondents Corporation to reinstate him into service along with continuity of service with notional increments, but without back wages. Accordingly, he was reinstated into service on 05-01-2004 and was directed to work under 3rd respondent on 07-01-2004 and worked there for about four days as driver up to 11-01-2004. Subsequently, he was sent for medical check up on 12-01-2004 wherein he was found with a disability of defective vision and the Medical Board declared him as unfit for the post of driver. Thereafter, he made a representation dated 20-02-2004 to the respondents to provide alternative employment as per Section 47 of the Persons with Disabilities (Equal opportunities, protection of rights and full participation) Act 1 of 1995 (for short 'the Act'). But, without providing any alternative employment, 3rd respondent again sent him for re-medical examination, wherein the Medical Officer

examined him on 01-03-2004 & 25-08-2004 respectively and found unfit for the post of driver due to defective vision. Ultimately, 3rd respondent had issued the proceedings impugned dated 12-01-2005 retiring him from the post of driver. Since no action has been taken on the representation of the petitioner dated 20-02-2004 and the respondents are not permitting him to attend the duties, he filed the present writ petition.

Learned counsel for the petitioner submitted that in terms of Section 47 of the Act, the respondents are under an obligation to provide alternative employment and placed reliance on the judgment of this Court in ***N.Siva Kumar Vs. APSRTC, Musheerabad*** and others[1].

Heard the learned counsel for the petitioner and the learned Standing Counsel for the respondents-APSRTC.

This Court in ***N.Siva Kumar's case*** considered similar issue and directed the authorities to consider the case of the employee in the light of the provisions of the Act for alternative employment. The relevant portion reads as under;

> "Having regard to the fact that a right has been conferred upon the appellant herein under a statute, although the question raised herein has not been raised before the learned single Judge, we, in modification of the order passed by the learned single Judge, direct the appellant herein to file a representation, if not already filed, before the appropriate authority seeking the relief prayed for in this appeal, and on receipt of such a representation, the appropriate authority may consider the case of the appellant in the light of the aforementioned provisions and the

> decisions referred to hereinbefore, and pass an appropriate order at an early date, preferably within a period of four (4) weeks from the date of communication of this order."

In the present case, the representation dated 20.02.2004 made by the petitioner seeking alternative employment as per Section 47 of the Act is said to be pending consideration before the respondents. Hence, I deem it appropriate to dispose of the writ petition directing the respondents to consider the representation of the petitioner dated 20.02.2004 and pass appropriate speaking orders in accordance with law particularly in the light of Section 47 of the Act, as expeditiously as possible, preferably within a period of three months from the date of receipt of copy of this order.

With the above direction, the writ petition is disposed of. No costs.

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N.V. RAMANA, J.

Date: 24.8.2006

sj/ksr

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[1] 2001 (3) ALD 166 (DB)